

## REMARKS

Claims 1-6 are cancelled without prejudice or disclaimer to the claimed subject matter. Claims 15 and 17 are amended as to form only. No new matter is added. Claims 7-19 are currently pending in this application. Reconsideration and allowance of this application in view of the foregoing amendments and following remarks are respectfully requested.

### *Rejections Under 35 USC § 103(a)*

Claims 1 and 3-6 were rejected under 35 U.S.C. § 103(a) as being obvious over WO/2004/012218 by Lee in view of Marcus in view of U.S. Pat. 4,940,916 to Borel. Applicants have cancelled claims 1 and 3-6 and submit that the rejection is moot.

Claim 1, 3-5 and 7-19 were rejected under 35 U.S.C. § 103(a) as being obvious over WO 2004/012218 by Lee in view of Marcus. With regard to cancelled claims 1 and 3-6, the rejection is moot. With regard to claims 7-19, Applicants submit that Lee does not predate the priority date of the present application under §§ 102(b) and 102(e). The present application claims priority (through PCT/KR03/02851) to foreign priority document KR 10-2003-0002716, filed January 15, 2003. The claim for priority has been perfected by the Patent Office's acknowledged receipt of a certified copy of KR 10-2003-0002716. In contrast, Lee was filed July 30, 2003, after the filing date of the foreign priority document. Pursuant to 37 C.F.R. § 1.55(a)(4), Applicants submit herewith an English language translation of the certified copy of the foreign priority document together with a Certificate of Translation certifying that the translation is correct. Applicants request that the rejection of claims 7-19 be withdrawn for at least this reason.

16. (Original) The method according to claim 15, wherein the anode insulation layer is formed of SiO<sub>2</sub>, SiCOH, or insulating metal oxides.

17. (Currently Amended) The method according to claim 15, wherein step (c1) is carried out by dipping [[it]] the alumina layer in a solution of phosphoric acid or a mixed solution of phosphoric acid and chromic acid.

18. (Original) The method according to claim 15, wherein step (a) further comprises forming a resistive layer on the cathode layer, in step (c), the depth of the sub-microholes is extended to the surface of the resistive layer and, and in step (d), the emitters are adhered to the resistive layer.

19. (Original) The method according to claim 15, wherein the method further comprises increasing the diameter of the sub-microholes in the alumina layer by post-chemical treatment after step (b).

Applicants traverse the designation of the Office Action as final. The Office Action stated that "Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action." Applicants submit that the claimed and examined subject matter did not change as a result of the prior amendment because Applicants merely incorporated a dependent claim limitation (from now cancelled claim 2) into independent claim 1. Thus, any ground(s) of rejection asserted against claim 2 would logically have continued to be available against amended claim 1. The Office Action provided no new ground(s) for rejecting claims 3-6, dependent on claim 1. Thus, Applicants' amendment did not necessitate new grounds of rejection and is an improper basis for a determination of finality. Applicants request that the determination of finality be withdrawn and the Office Action be designated as non-final.

In view of the above remarks, it is believed that the claims satisfy the requirements of the patent statutes and are patentable over the cited art. Reconsideration of the instant application and early notice of allowance are requested. The Examiner is invited to telephone the undersigned if it is deemed to expedite allowance of the application.

Respectfully submitted,

Date: May 15, 2009

By: 

Joseph A. Hynds

Attorney for Applicants

Registration No. 34,627

ROTHWELL, FIGG, ERNST & MANBECK, p.c.

Suite 800, 1425 K Street, N.W.

Washington, D.C. 20005

Telephone: (202)783-6040